

MINUTES
ENOCH CITY PLANNING COMMISSION
April 26, 2016 at 5:30pm
City Council Chambers
City Offices, 900 E. Midvalley Road

MEMBERS PRESENT:

Commissioner John Horstdaniel
Commissioner Paul Hardy
Commissioner Josh Killian
Commissioner Debra Ley
Commissioner Bob Tingey

STAFF PRESENT:

Julie Watson, City Recorder
Rob Dotson, City Manager
Dave Nelson, Bldg. Inspector
David Harris, Council Member

PUBLIC PRESENT: Carolyn Jones, Ivan Matheson Jr., Wayne Grimshaw, Jolene Lee, Ryan Brindley, Dave Clarke and Spencer Jones

1. **CALL TO ORDER OF REGULAR MEETING**-By Chairman Tingey at 5:30pm. He welcomed the public.
 - a. **Pledge of Allegiance** –Led by Commissioner Hardy
 - b. **Invocation** –Audience invited to participate. Given by Carolyn Jones
 - c. **Approval of agenda for April 26, 2016** –**Commissioner Hardy made a motion to approve the agenda. Motion was seconded by Commissioner Killian and all voted in favor.**
 - d. **Approval of minutes for April 12, 2016**- **Commissioner Horstdaniel made a motion to approve the minutes. Motion was seconded by Commissioner Killian and all voted in favor except Commissioner Hardy who abstained because he was absent from that meeting.**
 - e. **Conflict of Interest Declaration**-none stated

2. **DISCUSS AND MAKE RECOMMENDATION TO THE CITY COUNCIL ON THE MATHESON MINOR LOT SUBDIVISION**

City Manager Dotson said he met with the Mathesons in a Design Review Committee meeting and talked about utilities and the entrance to the lot and it all looks good. Commissioner Ley said this is an R-1-18 zone. Doug Grimshaw did the surveying and said it meets the City requirements in the notes on the plat map. Chairman Tingey asked if we are aware of anything in this application that needs to be addressed. City Manager Dotson said it appears all in order. Ivan Matheson asked about the transportation fee of \$200 that is required. City Manager Dotson said that is an administrative matter and they would need to ask the City Council about that. Chairman Tingey said since there are no issues he would entertain a motion to make a recommendation to the City Council. **Commissioner Horstdaniel made a motion to send a favorable recommendation to the City Council on the Matheson Minor Lot Subdivision. Motion was seconded by Commissioner Killian and all voted in favor.**

3. **PUBLIC HEARING ON CHANGES TO THE SUBDIVISION ORDINANCE REGARDING DRAINAGE AND OTHER MINOR CHANGES TO SEMANTICS FOR CLARIFICATION**

Chairman Tingey asked for a motion to enter the public hearing. **Commissioner Horstdaniel made a motion to close the regular meeting and go into the public hearing. The motion was seconded by Commissioner Hardy and all voted in favor.**

Chairman Tingey invited public comments. There were none.

Commissioner Hardy made a motion to end the public hearing and go back to the regular meeting. Commissioner Killian seconded the motion and all voted in favor.

4. MAKE RECOMMENDATION TO THE CITY COUNCIL ON CHANGES TO THE SUBDIVISION ORDINANCE REGARDING DRAINAGE AND OTHER MINOR CHANGES TO SEMANTICS FOR CLARIFICATION

Chairman Tingey asked for discussion on the changes. Commissioner Ley said this is what was discussed as reasonable changes to the Subdivision Ordinance regarding drainage and updating technological terms and requirements for submittals. There was brief discussion of the retention pond on Highway 91 and Enoch Road. Chairman Tingey said that is part of our drainage plan and will be dry most of the time. When heavy rains come the pond will retain the storm water from the east side of the freeway to allow it to soak in or be let out gradually. Commissioner Ley asked about the 25-year and 100-year connotations. Those are engineering terms City Manager Dotson said. He explained about the design of catch basins for storm water and that they have to be done to certain specifications. Post development flows will be required to be maintained on the premises of new subdivisions. That storm water has to stay there except for a certain standard of pre-development flow and developers will be required to build to the standards. Storm water over flowing off the property has to be put into our system in a reasonable manner so as not to overwhelm the system. We have the calculations of what our system will take and developers have to meet that. The changes to the Subdivision Ordinance are to require developers to actually build something to take care of the storm water. Currently our ordinance only requires them to do a drainage study. They will have to get easements or whatever is necessary to get storm water into our system safely. That could involve retaining the water on the property so it can be let out gradually rather than flooding the lower parts of Enoch. Commissioner Horstdaniel asked if we have the scientific equipment to check this. City Manager Dotson said our City Engineer checks the design so this covers our due diligence in the design process of a subdivision. Chairman Tingey asked for a motion. **Commissioner Horstdaniel made a motion to send a favorable recommendation to the City Council on the changes to the Enoch Subdivision Ordinance regarding drainage and other minor changes to semantics for clarification as discussed. Commissioner Killian seconded motion and all voted in favor.**

5. DISCUSS ZONE CHANGE FROM RURAL RESIDENTIAL-1 (R-R-1) TO COMMUNITY COMMERCIAL (C-C) FOR PROPERTY OWNED BY TRENT SNOW AND RYAN BRINDLEY LOCATED AT 2100 E. MIDVALLEY ROAD AND SET A PUBLIC HEARING FOR MAY 10, 2016

Chairman Tingey said we have a request for a zone change on three lots from Rural Residential to Community Commercial. Ryan Brindley was in attendance to represent the applicants. City Manager Dotson said Ryan and Brett Brindley each own one lot and Trent Snow has one lot and they are going together to request rezoning to Community Commercial. Ryan said he wants to build storage units on his property and does not know what Mr. Snow intends for his property at this time. Commissioner Horstdaniel asked if a storage facility is built is there any impact under the power lines. Dave Nelson said anything being built has to follow power company standards for building under power lines. It was noted there is concern over the intersection of Midvalley Road and Highway 91 however the property in need of correction is owned by others and is not a part of the property in this application. **Chairman Tingey asked if this application was all done properly. City Manager Dotson said it is all good from his review. A public hearing is required by law and adjacent property owners will be notified by letter of the pending zone change. Chairman Tingey asked for a motion to set a public hearing for May 10th. Commissioner Killian so made a motion to set the public hearing for**

May 10 2016. The motion was seconded by Commissioner Horstdaniel and all voted in favor.

6. DISCUSS CONDITIONS AND ENFORCEMENT OF CONDITIONS FOR A CONDITIONAL USE PERMIT FOR SHANE SACKETT AND MAKE A RECOMMENDATION TO THE CITY COUNCIL

Chairman Tingey said we sent a negative recommendation on a conditional use permit two weeks ago and the City Council sent it back to the Planning Commission to set some conditions on this business. The City Attorney said we did not have a choice on approving it as the law says that a business must be approved with conditions. Chairman Tingey read Utah Code 10-9-507-#2 which says "a conditional use SHALL be approved if reasonable conditions can be opposed to mitigate detrimental effects". Chairman Tingey asked for discussion of the conditions as State Code trumps our ordinance in this. It appears the City Council is leaning to approve the application with conditions. Council Member Harris said if things that make it detrimental to a neighborhood cannot be mitigated with conditions then it can be denied. If the applicant took it to court the court would rule in his favor without any conditions. He added if our ordinance did not allow for a conditional use for an auto repair business we would not be talking about this so we should revisit that.

Chairman Tingey said reasonable conditions, if followed would mitigate these things. We thought there were legitimate nuisance factors but they could be mitigated. If the owner does not follow conditions then there are consequences of license revocation and possible Class B misdemeanor charges. The Planning Commission did not feel good about this however this action is not from resident input but because of the law. Commissioner Killian agreed saying to follow the law we have to do this. We will have a chance to change the ordinance but changes would not apply here. Dave Nelson suggested they list each concern and then set a condition to solve each problem. The things the neighbors cited are covered by the nuisance ordinance. The problem lies in that our laws are very subjective and ambiguous. City Manager Dotson read from the ordinance which says anyone can say they don't like it and that is enough. Is it really a nuisance? We can't comply with State Code using our ordinance. You have to state what the objections of neighbors are and determine if they can be mitigated reasonably. You can regulate noise at night. Smells may not be able to be regulated because they can't be objectively measured. You can say the front yard can't have cars parked there waiting for work on them. That can be mitigated and is reasonable.

Chairman Tingey said we have to define this with reasonable means and name things we can actually go in and enforce on conditions. There was more discussion that many things are regulated by other agencies like OSHA and the EPA. Utah OSHA does inspect garages randomly all the time. The applicant has to comply with all of their regulations or be shut down by them. Commissioner Hardy asked if he has a separate building for the auto work and he does. Commissioner Horstdaniel said he has a lift in a 30x30x12 detached garage. It is a new building made from used materials and he did not get a building permit before starting it. It is framed up and Dave Nelson is working with him on compliance to building regulations.

Commissioner Hardy asked City Manager Dotson about a big complaint that he was burning noxious stuff. City Manager Dotson said that we must have evidence of what he did and much was alleged. Working at night and making noise is one thing. Also the front of the property with cars parked there blocking the view of traffic was an issue. Starting vehicles and letting them run emitting bad fumes is an issue. City Manager Dotson said other things were said and much was not true. Also dropping off vehicles with large delivery trucks on a residential street was a problem at times. He has oil cans in the garage and many people have that so it is not reasonable to regulate that. Chairman Tingey added we should consider reasonable hazards and nuisances.

Chairman Tingey listed the concerns on the board. Concerns included burning, impeding traffic or increasing traffic, working hours of operation for noise at night, cars parked in front of the house and parking of vehicle transporters on the roadway. It was noted that Shane said that has not happened in along time although it was brought up by the neighbors. Commissioner Killian made the point that the City Council changed the ordinance to allow semi-trucks to park where they want to. City Manager Dotson said we can condition it for this business to not be allowed. City Manager Dotson said you can't tell him when to work but when he can make noise. He added applicable standards are by decibels but we do not have a decibel meter in the City. City Manager Dotson said based on law for this situation we can regulate hours of work and set a time and that is the only way to enforce it on noise. Generally accepted "quiet time" is ten at night to six in the morning.

Another concern brought up was what goes into the sewer. City Manager Dotson said every business license is checked by the pretreatment operator, Pete Sury and he regulates that. They can back track when they find hazardous waste. City Manager Dotson confirmed Shane's oil is picked up for disposal. After more discussion the conditions were set for recommendation as follows:

1. **No unauthorized burning of any hazardous materials. Any burning must be done within the regularly set burn periods and may not include hazardous materials.**
2. **Hours of operation in order to mitigate noise issues will be restricted to the hours of 8:00am to 8:00pm, seven days a week.**
3. **Parked cars-No vehicles brought in for work are to be on the street. They are to be in the back behind the gate and to be parked in the back after work hours. It was noted his personal vehicles may be parked at the home wherever he wants them.**

It was noted this business is subject to all rules and regulations of OSHA and EPA on the storage of chemicals and oils. Commissioner Killian confirmed that the City Attorney will look at this. We will emphasize all State and Federal regulations are to be followed. Commissioner Ley asked about the timeframe for performance and how often we will check it. Dave Nelson said this can be set to reevaluate in six months, yearly or shorter or if there are complaints. We will always investigate when complaints come in. Chairman Tingey said as a Planning Commission we want to feel we are in the spirit of trying to let people do with their property what they want and also protecting others. City Manager Dotson said he is running this business without a license so we want the conditions to be met ASAP. The neighbors expect action of some kind. The more we delay then due process is reduced for all.

Commissioner Hardy made a motion to send a favorable recommendation to the City Council on these conditions for Shane Sacket to get a conditional use permit for an auto repair business in a residential neighborhood as listed and discussed. Commissioner Horstdaniel seconded the motion and a roll call vote was held:

Commissioner Horstdaniel-yes

Commissioner Hardy-yes

Commissioner Ley-no

Commissioner Killian-yes

Chairman Tingey-yes

Motion passed 4 to 1

7. PUBLIC COMMENTS

Wayne Grimshaw said he has two things. Looking through the ordinance that says if a building is less than 12x12 it does not need a building permit. It does not mention private greenhouses and something should exempt a personal private greenhouse from size restrictions and from being required to get a building permit. Dave Nelson said there are ICC code requirements on

greenhouses so that is why they require a permit. Wayne added the ATV ordinance implies all are used for recreation and that is not so. Many ATV's are for farm use. If being used as a tractor they should follow tractor rules and like a farm vehicle you don't have to license it. Commissioner Killian confirmed that he is asking us to change this ordinance for farm vehicles doing farm work.

8. COMMISSION/STAFF REPORTS

Council Member Harris thanked the Planning Commission for their hard work on this issue adding it is better to have conditions than not. Other zoning issues will come up on later agendas for discussion.

Dave Nelson reported we are trying to get his new building software up and running. We are close to going paperless and he told about the program. Contractors can also use it through our website to see their inspections and request them. This was written by those working in the building industry. He is busy and has six more requests for solar on his desk. He added this CONDITIONAL USE PERMIT made us see we have a problem with our ordinance and need to look at it again.

City Manager Dotson said the conditional use permit uncovered challenges we did not know were there and we can change them when the basis is wrong. This is way too subjective. We can resolve that now. He noted many cities have this problem. There is a fine balance between personal and community rights. The point is the issue was uncovered so we can fix it and solve future problems.

Commissioner Ley said some don't "get" the impact on their neighbors. The Mayor said most people don't turn their neighbors in until it is critical and we need to do something.

Julie Watson said she would get the minutes on the CONDITIONAL USE PERMIT discussion to Chairman Tingey and then to the City Attorney.

Commissioner Horstdaniel said at last meeting he brought up again we need to start immediately to get rid of M-R-2. The citizens voted to stay with half acre and that zone is completely against everyone who voted for that. This application went through and we will see on that. It may resolve an affordable housing issue. He wants to get rid of M-R-2 and would like it on an agenda.

9. ADJOURN-Motion to adjourn by Commissioner Hardy. Motion was seconded by Commissioner Horstdaniel and all voted in favor. The meeting ended at 7:25pm.

Julie Watson, Recorder

Date